

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT GEORGE,

Movant,

23-cv-9444 (PKC)

-against-

UNITED STATES OF AMERICA,

Respondent.

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UNITED STATES OF AMERICA,

05-cr-249 (PKC)

-against-

ORDER

ROBERT GEORGE,

Defendant.

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CASTEL, U.S.D.J.

On December 19, 2007, Robert George pleaded guilty pursuant to a plea agreement to a superseding indictment charging him with conspiring to possess with intent to distribute 50 grams and more of cocaine base, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A). (ECF 21, 27). On November 7, 2008, Judge Thomas P. Griesa sentenced George to seventeen years' imprisonment and a five-year term of supervised release. (ECF 27).

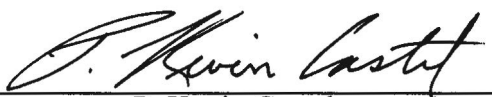
On October 23, 2023, George filed a pro se motion to vacate his conviction pursuant to 28 U.S.C. § 2255, arguing that he received constitutionally ineffective assistance of counsel. (ECF 31, at 5). On November 30, 2023, George filed a pro se petition for a writ of error coram nobis. (ECF 36). On December 19, 2023, George moved for discovery and

production of documents, and on January 12, 2024, George filed this motion again. (ECF 38 & 41). On March 28, 2024, George moved for the appointment of counsel. (ECF 45). The government replied to George's § 2255 motion on December 28, 2023. (ECF 40). In its response, the government represented to the Court that George had completed his term of imprisonment in this case, but is confined pursuant to a civil commitment order entered by the United States District Court for the Western District of Missouri under 18 U.S.C. § 4246. (ECF 40, at 2). The Court assumes without deciding that George is either on supervised release or is exposed to being on a term of supervised release.

Under Rule 17(c)(2), Fed. R. Civ. P., “[a] minor or incompetent person who does not have a duly appointed representative may sue by a next friend or a guardian ad litem. The court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.” The Court may not “make a merits determination of claims filed on behalf of a minor or incompetent person who is not properly represented.” Berrios v. New York City Housing Authority, 564 F.3d 130, 134 (2d Cir. 2009).

For that reason, George's motion requesting the appointment of counsel (ECF 45) is GRANTED. In the interests of justice, the Court appoints David J. Cohen as counsel pursuant to the Criminal Justice Act. Mr. Cohen may make a submission on Mr. George's behalf within 30 days of this order.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York

April 10, 2024